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June 24, 2002

OUR FILE NO.  
21279-00100

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JUN 24 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
c/o Vistrionix, Inc.  
236 Massachusetts Avenue, NE, Suite 110  
Washington, DC 20002

RE: Petition for Rule Making  
Arthur Radio Broadcasting  
Arthur, NE  
Channel 300C1

Dear Ms. Dortch:

Transmitted herewith, on behalf of Arthur Radio Broadcasting, are an original and four copies of a **PETITION FOR RULE MAKING**, requesting the allocation of Channel 300C1 to Arthur, Nebraska.

Should further information be necessary regarding this submission, kindly communicate directly with this office.

Sincerely,

  
John M. Pelkey

JMP/cl

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02-154

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In re Amendment of  
Section 73.202(b)  
Table of Allotments  
FM Broadcast Stations  
Arthur, NE

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

To: Assistant Chief, Audio Division

## Petition for Rule Making

Arthur Radio Broadcasting ("ARB"), pursuant to Sections 1.401 and 1.420 of the Commission's rules and by its attorneys, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments. Specifically, ARB requests that the Table of FM Allotments be amended so as to allocate Channel 300C1 to Arthur, Nebraska, as that community's first broadcast channel. In support of this Petition, the following is stated:

I. Arthur, Nebraska, is a Community in Need of a Broadcast Facility.

Arthur, Nebraska, is an incorporated community with a population of 145 persons according to the 2000 U.S. census. Arthur is governed by the five-member Arthur Village Board under the leadership of Board head Chad Cooney. Vicki Morrell, Joanne Cullinan, Doug Helmer and Barbara Macomber fill the other positions on the

Board. Arthur has its own post office with its own zip code, 69121. It is also the county seat of Arthur County, Nebraska, which has a population of 444 persons. The Arthur County Clerk and the Arthur County Sheriff both maintain their offices in the village of Arthur and Arthur hosts both the Arthur County Court and the State of Nebraska's 13<sup>th</sup> District Court. Arthur also boasts its own newspaper, *The Arthur Enterprise*, and is home to Arthur County High School. Arthur is the home of two significant tourist attractions, the Courthouse Museum and the Haybale Church.

Despite Arthur's status, no broadcast facilities of any type are allocated to the community. Allocation of Channel 300C1 would remedy this deficiency.

II. Allocation of Channel 300C1 to Arthur, Nebraska, can be accomplished in  
Accordance with the Commission's Technical Requirements for New Allocations.

Allocation of Channel 300C1 to Arthur can be accomplished in complete accordance with the Commission's rules governing allocations. Specifically, as the attached spacing study<sup>1</sup> demonstrates, the proposed allocation meets all spacing requirements.<sup>2</sup> In addition, as is depicted on the attached coverage map,<sup>3</sup> city-grade coverage would be achieved over all of Arthur from the proposed reference coordinates.

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<sup>1</sup> See Exhibit 1.

<sup>2</sup> The proposed reference coordinates are 41° ,37',18" NL; 101° , 45',27" WL.

<sup>3</sup> See Exhibit 2.

III. Allocation of Channel 300C1 to Arthur would be in the Public Interest.

The allocation of Channel 300C1 to Arthur would be in the public interest. The proposal would permit Arthur, the county seat of Arthur County, to receive its first local broadcast service, thereby serving the highest of the Commission's allocation priorities:

[T]here are virtually no populated areas of the country where our higher allotment priorities, such as first reception service, have not been attained. Therefore, as a practical matter, provision of first local service is the highest of our allotment priorities which remains in any significant degree unsatisfied.

*Amendment of the Commission's Rules Regarding Modification of FM and TV*

*Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990).<sup>4</sup>*

IV. If Channel 300C1 is Allocated to Arthur, ARB Will Apply for Facilities to Operate on the Channel and, if such Application is Granted, will Construct Such Facilities.

As required by the Commission, ARB hereby commits to apply for an authorization to construct the requisite facilities on Channel 300C1 at Arthur if the allocation is adopted by the Commission. In addition, ARB commits to construct those facilities if awarded such construction permit.

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<sup>4</sup> As the Commission explained in *Revision of FM Assignment Policies and Procedures*, the FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). 90 FCC2d 88, 91 (1982).


Conclusion

As has been demonstrated above, allocation of Channel 300C1 to Arthur, Nebraska, would be in the public interest inasmuch as it would allow the community to enjoy its first local transmission service. Accordingly, ARB respectfully requests that the Table of FM Allotments be amended as follows:

Community	Present Allotment	Proposed Allotment
Arthur, Nebraska	- -	300C1

Respectfully submitted,

Arthur Radio Broadcasting

By:   
John M. Pelkey  
Its Attorney

Garvey, Schubert & Barer  
5<sup>th</sup> Floor, 1000 Potomac Street, N.W.  
Washington, DC 20007

202/965-7880

Date: June 24, 2002

Exhibit 1

Spacing Study

Alloc  
Arthur NE

REFERENCE	CLASS = C1	DISPLAY DATES
41 37 18 N	Current Spacings	DATA 04-23-02
101 45 27 W		SEARCH 06-11-02

----- Channel 300 - 107.9 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin	
N. Lat.	W. Lng.	Power	HAAT				
ALLO	VAC 297C1	Hershey	NE	81.62	128.9	82.0	-0.38
41 09 30	101 00 00	100.000 kW		299 M			
		RM9565					
KPAW.C CP	300C1	Fort Collins	CO	287.05	249.6	245.0	42.05
40 40 50	104 56 32	100.000 kW		195 M			
		Jacor Broadcasting Of Colo	BPH19980319IC				
KPAW	LIC 300C1	Fort Collins	CO	287.05	249.6	245.0	42.05
40 40 50	104 56 32	100.000 kW		143 M			
		Jacor Broadcasting Of Colo	BLH6757				
KELN	LIC 246C1	North Platte	NE	98.44	115.3	34.0	64.44
41 14 20	100 41 43	100.000 kW		140 M			
		Eagle Radio, Inc.	BLH19790315AF				
KGCR	LIC 299C1	Goodland	KS	251.73	173.9	177.0	74.73
39 22 02	101 26 44	100.000 kW		136 M			
		The Praise Network, Inc	BLED19980518KA				

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Exhibit 2

City-grade Coverage



Alloc 300C1 - Arthur, NE  
Hypothetical City-grade coverage  
Coords: 41-37-18~101-45-27

